

DETAILED ACTION

1. This communication is a First Action Non-Final on the merits. Claims 1-14, as originally filed, are currently pending and have been considered below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris (2003/0208752) in view of (Scarborough et al. 7,080,057, hereinafter Scarborough).**

As per claim 1, Farris discloses "An interactive system for testing a user's aptitude, said interactive system comprising:

"a) a database of audiovisual simulations" (§ 7 discloses streaming video applications to simulate employee customer scenarios and claim 16 discloses a database storing the video simulations);

"b) a display device for displaying said audiovisual simulations" (§ 31 discloses a computer screen for displaying the simulation);

"c) an input device for making selections in response to said audiovisual simulations" (§ 66 discloses response fields for entering answers to questions, where it is inherent that there is an input device in order for the user to enter responses);

"and d) an assessment output created from said selections" (§ 78 and 79 discloses printing the results of the assessment).

In reference to the "testing a user's aptitude for automobile sales", it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). Therefore, this limitations is not given patentable weight

Farris, however, fails to explicitly disclose "e) a forwarding service for sending said assessment output to a third party".

Scarborough discloses electronic employee selection systems having a forwarding service for sending said assessment output to a third party (col. 5, line 46-47 discloses sending hiring recommendations to hiring managers, where the hiring manager is the third party).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of Farris to include the forwarding service as taught by Scarborough in order to facilitate the hiring process by communicating assessment results to the hiring managers.

As per claim 5, Farris further discloses "interactive system comprises a first computer" (abstract discloses an employee candidate computer).

4. Claims 2-4, 6-8, and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris in view of Scarborough and further in view of Pfenninger et al. (6,681,098, hereinafter Pfenninger).

As per claim 2, the Farris and Scarborough combination discloses all of the elements of the claimed invention but fails to explicitly disclose "database is accessible by a first computer"

Pfenninger discloses a test administration system having a database that is accessible by a first computer (col. 2, line 1-15 discloses a test administrator at a first computer having access to a database of assessments).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of Farris to include a first computer having access to the database of assessments as taught by Pfenninger in order to allow employers to choose the assessments that will most accurately assess the prospective employee's aptitude for a particular position.

As per claim 3, the Farris and Scarborough combination discloses all of the elements of the claimed invention but fails to explicitly disclose "said first computer is able to register with said database".

Pfenninger discloses a test administration system having a database that is accessible by a first computer (col. 2, line 1-15 discloses a test administrator at a first computer registering with the system to have access to a database of assessments).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of Farris to include a registration required to gain access to the database of assessments as taught by Pfenninger in order to limit access to those users that are authorized to use the system.

As per claim 4, the Farris and Scarborough combination discloses all of the elements of the claimed invention but fails to explicitly disclose “a remote computer is able to access said database”.

Pfenninger discloses a test administration system having remote access to the system (col. 2, line 1-15 discloses a website containing the database being accessible by remote computers).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of Farris to include the remote access as taught by Pfenninger in order to make the system easily accessible by its users.

As per claim 6, the Farris and Scarborough combination discloses all of the elements of the claimed invention but fails to explicitly disclose “interactive system comprises a remote computer”.

Pfenninger discloses a test administration system having a system that comprises remote computers (Fig. 1 and col. 1, line 30-57 discloses remote computers).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of Farris to include the remote access as taught by Pfenninger in order to make the system easily accessible by its users.

As per claim 7, Scarborough further discloses “assessment output is forwarded by said forwarding service to said first computer” (col. 5, line 46-47 discloses sending hiring recommendations to the hiring manager’s computer).

Claim 8 recites equivalent limitations to claim 7 and is, therefore, rejected using the same art and rationale as set forth above.

As per claim 11, Farris discloses "A method for finding a qualified job candidate, said method comprising the steps of:

"receiving a series of selections in response to audiovisual simulations from a job candidate" (§ 7 discloses presenting simulations that require a response by an employee candidate, and § 8 discloses the candidate submitting responses to the system).

Farris, however, fails to explicitly disclose "receiving inputs from a subscriber".

Pfenninger discloses a test administration system receiving inputs from a registered user (col. 2, line 10-27 discloses a registered test administrator selecting tests and associates the tests chosen to specific test subjects, where these selections are inputs that are received by the system and where a registered user subscribes to the system).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of Farris to include the receipt of inputs by a registered user as taught by Pfenninger in order for the registered user to be able to select the tests and test subjects that will use the system.

The Farris and Pfenninger combination discloses all of the elements of the claimed invention but fails to explicitly disclose "creating an assessment based upon

said series of selections from said job candidate; and sending said assessment to said subscriber in accordance with said inputs of subscriber”.

Scarborough discloses an electronic employee selection system creating an assessment based upon said series of selections from said job candidate (col. 2, line 47-67 discloses providing predictions indicating how an applicant will perform, where this prediction serves as an assessment of how the applicant will perform); and sending said assessment to hiring managers (col. 5, line 46-47).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of the Farris and Pfenninger combination to include the creating and sending of assessments as taught by Scarborough since such would facilitate the selection of qualified employees.

As per claim 12, the Farris and Scarborough combination discloses all of the elements of the claimed invention but fails to explicitly disclose “inputs are received by a server from a first computer.

Pfenninger discloses a test administration system having inputs received by a server from a first computer (col. 1, line 1-27 discloses a web site using a web server containing an administrator workspace where the registered test administrator may input test selections, where the workspace is accessed from the administrator's computer).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of

the Farris and Scarborough combination to include the receipt of inputs by a server from a first computer since such would facilitate the use of the system.

As per claim 13, the Farris and Scarborough combination discloses all of the elements of the claimed invention but fails to explicitly disclose "selections are received by said server from a remote computer".

Pfenninger discloses a test administration system receiving answers from a remote computer (col. 1, line 63-67 discloses a test taker remotely taking a test, where the act of taking a test includes providing answers to test questions).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of the Farris and Scarborough combination to include the remote testing as taught by Pfenninger in order to make the system easily accessible by its users.

As per claim 14, The Farris and Pfenninger combination discloses all of the elements of the claimed invention but fails to explicitly disclose "assessment is sent from said server to said first computer.

Scarborough discloses an electronic employee selection system sending assessments to the hiring manager's computer (col. 5, line 46-47 discloses sending hiring recommendations to the hiring manager's computer, where the recommendation is the assessment).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of the Farris and Pfenninger combination to include the sending of the assessments as

taught by Scarborough in order to facilitate the hiring process by communicating assessment results to the hiring managers.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris in view of Scarborough and further in view of Kerwin (2001/0036619).

As per claim 9, Farris discloses "A method for assessing skills relating to automobile sales, said method comprising the steps of:

"a) displaying a first interactive audiovisual simulation" (§ 31 discloses a computer screen for displaying the simulation);

"b) displaying a plurality of potential responses to said first interactive audiovisual simulation" (§ 67 discloses multiple choice questions, where multiple choice questions contain a plurality of potential responses to a question);

Farris, however, fails to explicitly disclose "And d) providing an aptitude analysis based upon said selection".

Scarborough discloses an electronic employee selection system providing an aptitude analysis based upon information collected from a user (col. 2, line 47-67 discloses providing predictions indicating how an applicant will perform, where this prediction serves as an aptitude analysis).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of Farris to include the aptitude analysis as taught by Scarborough in order to determine whether a candidate will be a good fit for a particular job.

The Farris and Scarborough combination discloses all of the elements of claimed invention but fails to explicitly disclose “c) displaying a second interactive audiovisual simulation corresponding to a selection from said plurality of potential responses”

Kerwin discloses a training method displaying a discussion corresponding to the selection from a plurality of potential responses (§ 38 discloses displaying a discussion identifying why a selection was not the best).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of the Farris and Scarborough combination to include the discussion displayed corresponding to said selection as taught by Kerwin in order to offer an opportunity for an applicant, trainee, or candidate, etc. to learn why or why not their selections were correct or acceptable.

Examiner considers “skills relating to automobile sales” to be nonfunctional descriptive material as recited. The type of skills being assessed does not change the function of the claimed invention. Examiner contends that the employee candidate assessment of the Farris, Kerwin and Scarborough combination is fully capable of assessing the skills relating to any job position.

As per claim 10, the Farris and Kerwin combination discloses all of the elements of the claimed invention but fails to explicitly disclose “said aptitude analysis is forwarded to a third party”.

Scarborough discloses electronic employee selection systems having a forwarding service for sending hiring recommendations to a third party (col. 5, line 46-47

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discloses sending hiring recommendations to hiring managers, where the hiring manager is the third party).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the employee candidate assessment of Farris to include the forwarding service as taught by Scarborough in order to facilitate the hiring process by communicating assessment results to the hiring managers.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDICE D. CARTER whose telephone number is (571) 270-5105. The examiner can normally be reached on Monday thru Thursday 7:30am- 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CDC

/John G. Weiss/
Supervisory Patent Examiner, Art Unit 3629